



Memphis and Shelby County Land Use Control Board

CITY HALL 125 NORTH MID AMERICA MALL MEMPHIS, TENNESSEE 38103-2084
(901) 576-6619

(Please visit our web site at: <http://www.dpdgov.com>)

MINUTES

Date: December 8, 2011

Meeting Attendance

LUCB Board Members

OFFICERS/MEMBERS	NAME	PRESENT	ABSENT
Chairman	James Toles	X	
Member	Loyal Featherstone	X	
Member	Rusty Linkous	X	
Member	Jon McCreery	X	
Member	Margaret Pritchard	X	
Member	Robert Norcross	X	
Member	Mary Sharp	X	
Member	Emily Trenholm	X	
Member	Lisa Wilbanks	X	
Member	Rosalyn Willis	X	
Alternate Member	Frank Colvett, Jr.		X

Call to Order and Roll Call

Chairman James Toles called the meeting to order at 10:00 a.m. Don Jones called the roll. There was a quorum.

LUCB Staff: Josh Whitehead, Secretary of Land Use Control Board, Chip Saliba, Don Jones, Terry Langlois and Gregory Love.

Others Present: Bob Evans, James Kincaide, Charles Perkins, Cindy Reaves, Edgar Stewart, Tony Stewart, Doyle Silliman, and Mark Yates.

Chairman's Opening Remarks

Chairman Toles read the General Order of the Public Hearing proceedings and the Conflict of Interest Statement.

Secretary's Report

No Secretary's Report given.

Approval of Minutes: November 10, 2011

Board Member Jon McCreery made a motion to approve the minutes. Board Member Emily Trenholm seconded the motion. The motion passed unanimously.

General Order of Public Hearing

Chairman Toles explained the procedure for hearing the applications; staff presentation for the application; applicant comments; comments from the public; time limits; rebuttal; and the LUCB's discussion and action. The Consent Agenda Items 1-4 were read. Chairman Toles also explained the procedure for hearing the Consent Agenda Items. He then introduced Board Member McCreery to be the Subdivision and Zoning Chair and to read the Consent Agenda Items.

Consent Agenda (Items 1-4)

1. CASE NUMBER: **P.D. 99-378**

DEVELOPMENT NAME: **THE ORCHARDS OF KIRBY PARKWAY PLANNED DEVELOPMENT**

Request: Reduction of rear yard setback from 40 feet to 33 feet to allow the construction of a screened porch

Staff's Recommendation: Approval

2. CASE NUMBER: **P.D. 00-316**

DEVELOPMENT NAME: **INTEGRA PLANNED DEVELOPMENT, PHASE 1, AREA B**

Request: Two walls signs attached to the north and south sides of an existing canopy on the front side of the HealthSouth Facility located at 4100 Austin Peay Highway

Staff's Recommendation: Approval

3. CASE NUMBER: **S.U.P. 09-204**

LOCATION: **Southeast corner of Mississippi Boulevard and Oakland Avenue**

Request: Two-Year Time Extension for the previous approval of a day care center

Staff's Recommendation: Approval

4. CASE NUMBER: **U.V. 09-02**

LOCATION: **West side of North Second Street @ Plum and Pear Avenues**

Request: Two (2) year Time Extension to construct an eighteen (18) bed hospital

Staff's Recommendation: Approval

Discussion Summary – Board Member McCreery made a motion to approve the Consent Agenda Items. The motion was seconded by Board Member Pritchard. The motion passed unanimously.

Doyle Sullivan approached and stated his name and address as 8389 Burning Tree Lane, Mphs., TN. He stated that he was representing the Windyke, Kings Hill, Winchester Hill and Buckingham Farms Neighborhood Associations. He then stated that he had contacted Josh Whitehead requesting more time to review the project since he had only become aware less than 48 hrs. prior to the meeting. He also stated that their neighborhood associations are listed with the OPD mail-out list to send out Neighbor Notices. Mr. Sullivan strongly felt the project would impact the neighborhood substantially, so he felt they should have more time to review and offer their comments. His final request to the LUCB was to hold the case until the all of the neighborhood associations, businesses and investors can review the details and the overall impact it would have on the neighborhood and the surrounding areas.

Chairman Toles allowed Mr. Perkins a 2 minute rebuttal.

Mr. Perkins stated that his clients really just needed to move forward with the project due to their deadlines. And he added neither he nor his clients were responsible of the neighbor notices going out and that they had submitted their application in a timely manner.

Chairman Toles asked the board for a motion. Board member McCreery made a motion to approve agenda item P.D.11-320 CC. The motion was seconded by Board member Pritchard.

Chairman Toles then opened the floor for board discussion. And he asked Josh Whitehead to explain why the neighbors were not properly notified.

Josh Whitehead stated that the Ordinance stipulates that all residence within a 500ft. radius should receive mail notification. He went on to say that the mailing list provided by the applicant was a 500ft. radius from the entire outlined plan area. He stated also the policy of OPD to take the list and incorporate any neighborhood associations with the radius only as taking an extra courtesy initiative. Josh added that for whatever reason, it was determined that the Golf Course of Windyke was included in the residential neighborhood of Windyke, which is located 5,000ft from subject property. He noted that Mrs. Lewis, in the past had sent notices to Mr. Sullivan, even though being outside of the Ordinance Policy, was sent a notice but after the initial mail-out. He finally added that the LUCB did have an option to "hold" a case once.

Chairman Toles asked Josh if there were time for the applicant to meet with the Neighborhood Associations, businesses and investors to inform them more of the project.

Josh Whitehead stated there was time, especially with the subject property being within a 5-mile zoned, both City Council and County Commission would need to take action.

Chairman Toles asked if there were any more comments.

Bob Evans from County Engineers office wanted to clarify the width of a segment of street called Crestwyn Dr. to be 48ft. asphalt, curb and gutter (which would be (3) 12' lanes and (2) 6' bike lanes) and 68ft. R-O-W to be center turn lane. He added that he would like to just add as the conditions, comments 4, 5, and 6 from City Engineer's Office. Josh Whitehead supported Mr. Evans clarification and agreed with the conditions.

Chairman Toles asked the board for an amended motion to change the width from 38ft. to 48ft. Board member McCreery made an amended motion to agenda item P.D.11-320 CC to change the width from 38ft. to 48ft. The amended motion was seconded by Board member Pritchard. The amended motion passed unanimously.

Chairman Toles then asked for a vote on the original motion if there were no more discussion. The motion passed unanimously.

Item 7: CASE #: SUP 11-217 Located West side of North Bellevue Boulevard, 477 feet south of Peach Avenue
Request for Catering Service.
Staff's Recommendation: Approval with conditions

Chairman Toles asked if the applicant was present and if there were any opposition. There was no opposition. He then asked if the applicant would come forth and state his name, address and if he agreed with staff recommendation.

Mark Yates approached and stated his name, address as 283 N. Bellevue and that he agreed with staff recommendation.

Chairman Toles asked the board for a motion. Board member McCreery made a motion to approve agenda item SUP 11-217. The motion was seconded by Board member Pritchard. The motion passed unanimously.

Item 8: CASE #: S.U.P. 11-218 Located West side of Berryhill Road; +/-1,275 feet north of Chimneyrock Boulevard
Request for Special permit to allow a communication tower one-hundred fifty-four (154) feet in height with capacity to accommodate a minimum of four (4) antennae
Staff's Recommendation: Approval with conditions

Chairman Toles asked if the applicant was present and if there were any opposition. There no was opposition by applicant, Edgar Stewart but Josh Whitehead stated two friendly amendments agreed upon by applicant.

Josh Whitehead stated the friendly amendments as: (1) either upgrade vinyl chain-linked fence to a site proof wooden fence or keep the vinyl chain-linked fence and add additional landscaping and (2) the antennas would be flush-mounted.

Chairman Toles asked the board for a motion with the friendly amendments. Board member McCreery made a motion to approve agenda item SUP 11-218 with the friendly amendments as stated by Josh Whitehead. The motion was seconded by Board member Pritchard. The motion passed unanimously.

Item 9: CASE #: S.U.P. 11-219

Located West side of Thomas Street; +/-260 feet north of Royal Avenue

Request for a junk yard and scrap metal.

Staff's Recommendation: Hold

*McCreery noted case was for a hold but changed to approval with conditions.

Chairman Toles asked if the applicant was present and if there were any opposition. There no was opposition. He then asked applicant to approach and state name and address for the record.

Cindy Reaves approached and stated her name and address as 5909 Shelby Oaks Dr., Ste. 200 and that she did agree with staff's recommendation. She also asked the board to consider in condition #4 if the earth tone color fence be changed to a white fence. Chairman Toles and the LUCB agreed.

Chairman Toles asked the board for a motion. Board member McCreery made a motion to approve agenda item S.U.P. 11-219 in accordance with staff's recommendation and the fence color change. The motion was seconded by Board member Pritchard. The motion passed unanimously.

Item 10: CASE #: Z 11-111

Located South side of Raines Road, 295 feet east of Marlin Road

Request for a Commercial Mixed Use-1 (CMU-1) District

Staff's Recommendation: Rejection of CMU-1 and

Approval of O-G

Chairman Toles asked if the applicant was present and if there were any opposition. There was no opposition. He then asked staff to present the staff report.

James Kincaide with Kincaide Tech Times approached and stated his name, address as 1093 Railton Rd. and that he and the applicant agrees with staff's recommendation.

Chairman Toles asked the board for a motion. Board member McCreery made a motion to approve agenda item Z 11-111 in accordance with staff's recommendation. The motion was seconded by Board member Pritchard. The motion passed unanimously.

ADJOURNMENT:

There being no further business, the meeting there upon adjourned.

MINUTES APPROVED: 1-12-12


CHAIRMAN


SECRETARY